

**REMARKS**

Prior to this Response, claims 62-127 were pending in this application. New claims 128-130 have been added, leaving claims 62-130 now pending. The Specification has been amended to correct an obvious typographical error in one of reference signs relating to Figure 4.

The amendments do not introduce new matter within the meaning of 35 U.S.C. §132. Basis for the claim amendments is found on page 2, lines 14-22; page 5, line 35 to page 6, line 30; page 7, lines 3-12; in claims 1-61 as originally filed; in claims 62-127 as previously presented; and elsewhere throughout the specification and claims. Accordingly, entry of the amendments is respectfully requested.

Applicants would like to thank the Examiner for the indication of allowable subject matter in claims 106, 126, and 127, if such claims are rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**1. Objection to the Drawings**

The Office Action objects to the drawings for the following reasons:

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Reference number "101" in Figures 5-8. A proposed drawing

correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application.

Applicants respectfully submit that reference sign 101 is already described in the Specification and that no amendment is required, and respectfully direct the Examiner's attention to page 9, lines 2-3, where reference sign 101 is described as follows: "...a transmitter/receiver located in a 'habitated' area of the ship, such as the bridge 101, or an associated instrument room."

Applicants believe in good faith that this description of reference sign 101 is in full compliance with 37 CFR §1.84(p)(5). If Applicants have misunderstood the basis for the objection to the drawings and the Examiner still has a concern with the description relating to reference sign 101 after review of this Response, the Examiner is welcomed to contact the undersigned to resolve the matter without the necessity for a further Office Action on this issue.

Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the objection to the drawings.

## **2. Objection to the Specification**

The Office Action objects to the Specification for the following reasons:

On page 8, line 31, delete "143", and insert --134--.

Applicants thank the Examiner for his helpful comments in noting the inadvertent error in the Specification relating to the reference sign for the antenna in Figure 4. Applicants have amended page 8, line 31 to read "...antenna 134...".

Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the objection to the Specification.

**3. Rejection of Claims 62-64, 66-70, 72, 73, 86-92, 104, 105, 112-119, and 121-125 under 35 U.S.C. §102(b)**

The Office Action rejects claims 62-64, 66-70, 72, 73, 86-92, 104, 105, 112-119, and 121-125 under 35 U.S.C. §102(b) as being anticipated by Welles, II et al. (US Patent No. 5,686,888; the '888 patent). As the basis for this rejection, in relevant part the Office Action states:

With regard to a signal generating means that holds data and sends a signal indicating correct operating if the parameter values are in tolerance and a signal indicating the system is not operating correctly if parameter values are out of tolerance, as shown in claims 62, 90, 104 and 117, Welles, II et al. teach a sending nominal temperature values and generating a report when temperature values are out of tolerance (col. 5, lines 14-32; col. 6, lines 16-42; Fig. 3).

Applicants respectfully traverse this rejection on the basis that the '888 patent fails to teach the claimed subject matter. Applicants' claims as presently presented are directed to telemetry systems for measuring one or more parameters within a transport container, remote sensing units for a telemetry system, and control

units arranged to be connectable to a data logging device.

By contrast, the '888 patent discloses a method for use of "mutter" mode in asset tracking for gathering data from cargo sensors, wherein autonomous electronic sensors are situated in proximity to cargo being shipped, said sensors communicate with an asset tracking unit affixed to the container for the goods via a mutter mode transceiver, and the tracking unit has the ability to relay the cargo sensor data to the central station on demand, on exception, or on a predetermined schedule established by the central station.

To constitute anticipation under 35 U.S.C. §102, all material elements of a claim must be formed in one prior art source. In re Marshall, 577 F.2d 301, 198 USPQ 344 (CCPA 1978); In re Kalm, 378 F.2d 959, 154 USPQ 10 (CCPA 1967). Contrary to the Office action, the '888 patent's disclosure of the mere ability to relay the cargo sensor data to the central station on demand, on exception ("immediately upon receipt when an exception condition is detected"), or on a predetermined schedule established by the central station, is not tantamount to a disclosure of signal generating means that holds data and sends a signal indicating correct operating if the parameter values are in tolerance, and a signal indicating the system is not operating correctly if parameter values are out of tolerance, as shown in claims 62, 90, 104, and 117.

The Examiner's interpretation of the '888 patent goes well beyond the plain meaning of the disclosure therein, particularly given that the only reference in the '888 patent to exception reporting is in relation to the immediate transmission of a message in the event of an exception occurring. Nowhere in the '888 patent does it teach or even suggest that bandwidth can be saved by transmitting a simple "all is well" signal except when values are out of tolerance. In particular, the '888 patent discloses the following regarding the type of data collected and transmitted:

The basic circuitry comprises a transmitter 100 coupled to an antenna 102, a microcontroller 104, and a clock 106 which triggers the transmitter to transmit data on a periodic basis, for example every fifteen minutes. The clock, microcontroller and transmitter are all powered by a battery 108. Coupled to microcontroller 104 are one or more environmental sensors such as, for example, a temperature sensor 110 and an accelerometer 112 for monitoring respectively temperature and shocks to which the goods are subjected in transit. The output signals of the environmental sensors are supplied to microcontroller 104, which provides suitable analog-to-digital conversion of the signals and formatting of the data for transmission by transmitter 100.

\* \* \*

The monitored data for all classes of goods are not the same. For some goods, temperature is a critical environmental factor, and temperature sensor 110 is therefore provided. For goods which are highly sensitive to shocks, accelerometer 112 is provided. For goods having an intrinsically high value, a serial number for the goods may be reported as a monitor of the integrity of the goods.

Thus, the '888 patent clearly contemplates sending **actual** temperature or other values when they are **within** tolerance, which is exactly what Applicants do **not** do within the scope of the claimed subject matter. In contrast to the '888 patent, Applicants' independent claims all relate to a feature in common: an arrangement where a specific status code is transmitted when the measured parameter is within tolerance. Such status code is not the actual measured value, but the result of a compilation of measured parameter(s) and a determination by the inventive telemetry systems, remote sensing units, or control units that such measured value(s) are within set tolerance range(s).

Thus, in the absence of any teaching in the '888 patent that the data monitored by the asset tracking unit described therein can be limited to a "all is well" or "within tolerances" status signal, the '888 patent does not anticipate the present claims.

Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw this rejection.

**4. Rejection of Claims 65, 75, 77-85, 93, 95-103, 107,  
109-111, and 120 under 35 U.S.C. §103(a)**

The Office Action rejects claims 65, 75, 77-85, 93, 95-103, 107, 109-111, and 120 under 35 U.S.C. §103(a) as being unpatentable over Welles, II et al. ("the '888 patent") in view of Hassett (U.S.

Patent No. 5,347,274), and further in view of official notice that digital, magnetic and floppy disk drive storage means are well known in the art. As the basis for this rejection, the Office Action refers to the reasons stated in the §102(b) rejection and states, in relevant part:

Welles, II et al. teach all the limitations of claims 62 and 63 upon which claim 65 depends, claims 62, 63 and 73 upon which claim 75 depends, claim 90 upon which claim 93 depends, claim 104 upon which claim 107 depends and claim 117 upon which claim 120 depends. ... Welles, II et al. do not teach a land based communications network, as shown in claims 65 and 120. Welles, II et al. do not teach storage means to record the parameter, as shown in claims 75, 93 and 107.

Applicants respectfully traverse this rejection. To establish a *prima facie* case, the PTO must satisfy three requirements. First, the prior art reference must teach or suggest all the limitations of the claims. *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). Second, the prior art relied upon, coupled with the knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference. *In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Third, the proposed modification of the prior art must have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *Amgen, Inc. v. Chugai Pharm. Co.*, 927

F.2d 1200, 1209, 18 U.S.P.Q.2d 1016, 1023 (Fed. Cir. 1991). The cited references meet none of these requirements.

For the reasons discussed above, the '888 patent fails to disclose a key limitation of the present claims: an arrangement where a specific status code is transmitted when the measured parameter is *within* tolerance. As the Examiner admits, Hassett teaches only land-based base stations that transmit data to a central data processor and a memory connected to the processor controlling the sensors in a waste transport management system, while the official notice taken only relates to digital, magnetic and floppy disk drive storage means as well known in the art. Thus, the cited references do not remedy this deficiency in the '888 patent.

Further, the Examiner has provided no suggestion or incentive, either in the references themselves or in the art as a whole, that would motivate one of ordinary skill in the art to combine the cited references. Finally, the Examiner has provided no suggestion or incentive, either in the references themselves or in the art as a whole, that the proposed modification of the prior art had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. The cited references fail to teach or suggest all the limitations of the claims; fail to provide motivation to combine references;



and fail to provide a reasonable expectation of success. Thus, the claims of the present application cannot be obvious over the '888 patent, alone or in combination with Hassett.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

**5. Rejection of Claim 71 under 35 U.S.C. §103(a)**

The Office Action rejects claim 71 under 35 U.S.C. §103(a) as being unpatentable over Welles, II et al. ("the '888 patent") in view of Darby, Jr. et al. (U.S. Patent No. 6,400,281). As the basis for this rejection, the Office Action refers to the reasons stated in the §102(b) rejection and states, in relevant part:

Welles, II et al. teach all the limitations of claims 62 and 63 upon which claim 71 depends. Welles, II et al. do not teach connecting the monitoring sub-systems using wire connections, as shown in claim 71.

Applicants respectfully traverse this rejection. As discussed in detail above, to establish a *prima facie* case, the PTO must satisfy three requirements: the prior art reference must teach or suggest all the limitations of the claims; the prior art relied upon must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference; and the proposed modification of the prior art must have had a reasonable expectation of success. The cited references meet none of these requirements.

For the reasons discussed above, the '888 patent fails to disclose a key limitation of the present claims: an arrangement where a specific status code is transmitted when the measured parameter is *within* tolerance. As the Examiner admits, Darby, Jr. et al. teach only connecting rail car units using many methods including optical systems, and thus do not remedy this deficiency in the '888 patent.

Further, the Examiner has provided no suggestion or incentive, either in the references themselves or in the art as a whole, that would motivate one of ordinary skill in the art to combine the cited references. Finally, the Examiner has provided no suggestion or incentive, either in the references themselves or in the art as a whole, that the proposed modification of the prior art had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. The cited references fail to teach or suggest all the limitations of the claims; fail to provide motivation to combine references; and fail to provide a reasonable expectation of success. Thus, the claims of the present application cannot be obvious over the '888 patent, alone or in combination with Darby, Jr. et al..

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

**6. Rejection of Claim 74 under 35 U.S.C. §103(a)**

The Office Action rejects claim 74 under 35 U.S.C. §103(a) as being unpatentable over Welles, II et al. ("the '888 patent") in view of Storm, et al. (DE 19534948 A1). As the basis for this rejection, the Office Action refers to the reasons stated in the §102(b) rejection and states, in relevant part:

Welles, II et al. teach all the limitations of claims 62, 63 and 73 upon which claim 74 depends. Welles, II et al. do not teach predict a projected state of perishable cargo at the end of a journey, as shown in claim 74.

Applicants respectfully traverse this rejection. As discussed in detail above, to establish a *prima facie* case, the PTO must satisfy three requirements: the prior art reference must teach or suggest all the limitations of the claims; the prior art relied upon must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference; and the proposed modification of the prior art must have had a reasonable expectation of success. The cited references meet none of these requirements.

For the reasons discussed above, the '888 patent fails to disclose a key limitation of the present claims: an arrangement where a specific status code is transmitted when the measured parameter is *within* tolerance. As the Examiner admits, Storm, et al. teaches only modifying conditions in a transport container containing perishables in order to change ripening conditions,

which suggests a prediction or expectation for the state of the product upon delivery, and thus does not remedy this deficiency in the '888 patent.

Further, the Examiner has provided no suggestion or incentive, either in the references themselves or in the art as a whole, that would motivate one of ordinary skill in the art to combine the cited references. Finally, the Examiner has provided no suggestion or incentive, either in the references themselves or in the art as a whole, that the proposed modification of the prior art had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. The cited references fail to teach or suggest all the limitations of the claims; fail to provide motivation to combine references; and fail to provide a reasonable expectation of success. Thus, the claims of the present application cannot be obvious over the '888 patent, alone or in combination with Storm, et al.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

**7. Rejection of Claims 76, 94, and 108 under 35 U.S.C. §103(a)**

The Office Action rejects claims 76, 94, and 108 under 35 U.S.C. §103(a) as being unpatentable over Welles, II et al. ("the '888 patent") in view of Hassett (U.S. Patent No. 5,347,274), and

further in view of Storm, et al. (DE 19534948 A1). As the basis for this rejection, the Office Action refers to the reasons stated in the §102(b) rejection and states, in relevant part:

Welles, II et al. and Hassett teach all the limitations of claim 75 upon which claim 94 depends, claim 93 upon which claim 94 depends and claim 107 upon which claim 108 depends. Welles, II et al. and Hassett do not teach measuring humidity as shown in claims 76, 94 and 108.

Applicants respectfully traverse this rejection. As discussed in detail above, to establish a *prima facie* case, the PTO must satisfy three requirements: the prior art reference must teach or suggest all the limitations of the claims; the prior art relied upon must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference; and the proposed modification of the prior art must have had a reasonable expectation of success. The cited references meet none of these requirements.

For the reasons discussed above, the '888 patent fails to disclose a key limitation of the present claims: an arrangement where a specific status code is transmitted when the measured parameter is *within* tolerance. As the Examiner admits, Hassett teaches only land-based base stations that transmit data to a central data processor and a memory connected to the processor controlling the sensors in a waste transport management system, while Storm et al. teach only measuring humidity in a transport

container. Thus, the cited references do not remedy this deficiency in the '888 patent.

Further, the Examiner has provided no suggestion or incentive, either in the references themselves or in the art as a whole, that would motivate one of ordinary skill in the art to combine the cited references. Finally, the Examiner has provided no suggestion or incentive, either in the references themselves or in the art as a whole, that the proposed modification of the prior art had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. The cited references fail to teach or suggest all the limitations of the claims; fail to provide motivation to combine references; and fail to provide a reasonable expectation of success. Thus, the claims of the present application cannot be obvious over the '888 patent, alone or in combination with Hassett and/or Storm, et al.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

**8. Rejection of Claims 88 and 89 under 35 U.S.C. §103(a)**

The Office Action rejects claims 88 and 89 under 35 U.S.C. §103(a) as being unpatentable over Welles, II et al. ("the '888 patent") in view of official notice that it is well known to communicate using a satellite telephone or a switched telephone

network. As the basis for this rejection, the Office Action refers to the reasons stated in the §102(b) rejection and states, in relevant part:

Welles, II et al. teach all the limitations of claims 62 and 86 upon which claim 88 and 89 depend. Welles, II et al. do not teach a communications channel that includes satellite telephone or a switched telephone system.

Applicants respectfully traverse this rejection. As discussed in detail above, to establish a *prima facie* case, the PTO must satisfy three requirements: the prior art reference must teach or suggest all the limitations of the claims; the prior art relied upon must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference; and the proposed modification of the prior art must have had a reasonable expectation of success. The cited references meet none of these requirements.

For the reasons discussed above, the '888 patent fails to disclose a key limitation of the present claims: an arrangement where a specific status code is transmitted when the measured parameter is *within* tolerance. As the Examiner admits, the official notice taken teaches only to communicate using a satellite telephone or a switched telephone network, and thus does not remedy this deficiency in the '888 patent.

Further, the Examiner has provided no suggestion or incentive, either in the references themselves or in the art as a whole, that

would motivate one of ordinary skill in the art to combine the cited references. Finally, the Examiner has provided no suggestion or incentive, either in the references themselves or in the art as a whole, that the proposed modification of the prior art had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. The cited references fail to teach or suggest all the limitations of the claims; fail to provide motivation to combine references; and fail to provide a reasonable expectation of success. Thus, the claims of the present application cannot be obvious over the '888 patent, alone or in combination with official notice that it is well known to communicate using a satellite telephone or a switched telephone network.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

#### **CONCLUSION**

Based upon the above remarks, the presently claimed subject matter is believed to be novel and patentably distinguishable over the prior art of record. The Examiner is therefore respectfully requested to reconsider and withdraw the rejections of remaining claims 62-130, and allow all pending claims presented herein for reconsideration. Favorable action with an early allowance of the



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claims pending in this application is earnestly solicited.

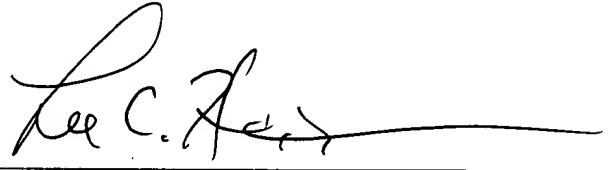
The Examiner is welcomed to telephone the undersigned attorney  
if he has any questions or comments.

Respectfully submitted,

**NATH & ASSOCIATES PLLC**

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